

Message Text

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PAGE 01 STATE 197671
ORIGIN EB-08

INFO OCT-01 EUR-12 ISO-00 CAB-05 CIAE-00 COME-00
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DRAFTED BY EB/OA/AN:WARILEY:LO
APPROVED BY EB/OA:MHSTYLES
EB/OA/AN:RABROWN
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-----107098 050456Z /14
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FM SECSTATE WASHDC
TO AMEMBASSY LONDON

UNCLAS STATE 197671

E.O. 11652: N/A

TAGS: EAIR, UK

SUBJECT: CIVAIR: USE OF 3 PERCENT WAIVER PROVISIONS OF
CHARTERS

REF: LONDON 10571

1. WE DISAGREE WITH TRADE DEPT POSITION REFTTEL. INITIAL
LEGS OF PAN AM FLIGHTS IN QUESTION WERE OPERATED BEFORE
ANNEX 4 WENT INTO EFFECT. RETURN SECTORS OF US ORIGIN
CHARTERS OPERATED AFTER EFFECTIVE DATE OF ANNEX 4 BUT
COMPLIED WITH US RULES IN EFFECT ON DATE OF OUTBOUND
DEPARTURE IN ACCORDANCE WITH PARA 6 OF ARTICLE 14. NOTE;
US CHARTER RULES IN EFFECT ON DATE OF DEPARTURE OF PAN AM
FLIGHTS INCLUDED PROVISION FOR WAIVERS GRANTED TO COMPLY
WITH CHARTER CATEGORY.

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2. USG UNDERSTANDING IS THAT CERTIFICATION BY AN AIRLINE
UNDER PARA (7) (D) (1) OF ARTICLE 14 THAT CHARTER FLIGHT
CONFORMS WITH PARA 6 OF ARTICLE 14 AND WITH ANNEX 4 SHOULD
GENERALLY BE ACCEPTABLE BUT THAT SUCH CERTIFICATE OF
CONFORMITY TO ANNEX 4 MAY BE CHALLENGED UNDER NEXT-TO-LAST
SENTENCE PARA (1) (A) OF ANNEX 4. IF CERTIFICATE IS
CHALLENGED AND IF BOTH PARTIES BELIEVE SUCH CHALLENGES

WILL BE FREQUENT, CONSULTATIONS ARE HELD. IF BOTH PARTIES
BELIEVE SUCH CHALLENGES WILL BE QUOTE EXCEPTIONAL UNQUOTE

THEN AIRLINE MUST DECIDE WHETHER TO SEEK 3 PERCENT WAIVER
FROM COUNTRY-OF-ORIGIN (USG IN THIS PARTICULAR CASE)
WHICH IS ONLY PARTY WHICH CAN GRANT IT (CF. PARA 3(B) OF
ANNEX 4).

3. CAB HAS INVESTIGATED FLIGHTS REFERRED TO IN REFTTEL AND
DETERMINED THAT SIX PAN AM PEOPLE-TO-PEOPLE FLIGHTS COMPLY
WITH CATEGORY "B" CRITERIA OF PARA (1)(C) OF ANNEX 4;
AND, THEREFORE, 3 PERCENT WAIVERS ARE NOT REQUIRED.

4. EMBASSY REQUESTED TO CONVEY ESSENCE OF ABOVE TO APPRO-
PRIATE UK AUTHORITIES. VANCE

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